SEALED

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR - 7 2014
CLERK, U.S. DISTRICT COURT
By Deputy

United States District Court

NORTHERN DISTRICT OF TEXAS

In the Matter of the Search of
(Name, address or Brief description of person, property or premises to be searched)
An LG M500 cellular phone with an ESN 309CYM022114 and IMEI 013758-00-022114-1, currently located at the Dallas Office of the FBI which is more fully described in Attachment A

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER: 3:14-MJ- 168-BN

I Rodrigo R. Gonzalez III **being duly sworn depose and say:**

I am a(n) Special Agent with the Federal Bureau of Investigation (FBI) and have reason to believe that on the person of or XX on the property or premises known as (name, description and/or location)

(SEE ATTACHMENT A).

in the NORTHERN **District of** TEXAS **there is now concealed a certain person or property, namely (describe the person or property to be seized)**

(SEE ATTACHMENT B).

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)
property that constitutes evidence of the commission of a crime, contraband, the fruits of crime, and is, otherwise, criminally possessed, **concerning a violation of Title** 18 **United States code, Section(s)** 2119 and 371 & 924(c). **The facts to support a finding of Probable Cause are as follows:**

(SEE ATTACHED AFFIDAVIT OF SPECIAL AGENT RODRIGO R. GONZALEZ III).

Continued on the attached sheet and made a part hereof. XX **Yes** _ **No**

Signature of Affiant
RODRIGO R. GONZALEZ III
Special Agent, FBI

Sworn to before me, and subscribed in my presence

March 7, 2014 at Dallas, Texas
Date | City and State

DAVID L. HORAN
United States Magistrate Judge
Name and Title of Judicial Officer

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF TEXAS

IN THE MATTER OF THE SEARCH OF A LGM500 CELLULAR PHONE, ESN 309CYXM022114, IMEI 013758-00-022114-1, CURRENTLY LOCATED AT THE DALLAS OFFICE OF THE FBI

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I, Rodrigo R. Gonzalez III being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an Application for Search Warrant to search the following cellular phone that was recovered by Dallas Police Department officers on December 31, 2013: a LG M500 cellular phone, ESN 309CYM022114, IMEI 013758-00-022114-1, which is described in Attachment A and which is currently in law enforcement's possession and located at the Dallas office of the Federal Bureau of Investigation, to search for and seize evidence, fruits, and instrumentalities of violations of 18 U.S.C. §§ 2119 and 2 (carjacking), 18 U.S.C. § 371 (conspiracy to commit carjacking), and 18 U.S.C. § 924(c) (using/carrying/brandishing a firearm during the commission of a violent crime), as more particularly described in Attachment B.

2. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed for 12 years. During my years as a Special Agent, I have conducted numerous investigations and used investigative techniques, such as electronic and physical surveillance, Title III wire intercepts, pen registers, undercover operations, undercover recordings, interviews of witnesses and defendants, the execution of search warrants, and the use of confidential informants related to said investigations.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included every fact known to me concerning this investigation. I have only set forth those facts that I believe establish probable cause to believe that evidence of violations of 18 U.S.C. §§ 2119 and 2 (carjacking), 18 U.S.C. § 371 (conspiracy to commit carjacking), and 18 U.S.C. § 924(c) (using/carrying/brandishing a firearm during the commission of a violent crime) will be found on the LG M500 cellular phone, ESN 309CYM022114, IMEI 013758-00-022114-1 (SUBJECT DEVICE) described in Attachment A, which is currently located at the Dallas Office of the FBI, One Justice Way, Dallas, Texas.

PROBABLE CAUSE

4. On December 30, 2013, five individuals, Blake Robertson, Jeremiah Walker, Christopher Staton, Michael Wafer, and Ladavid Sims conspired to commit an

armed robbery and carjacking. In connection with this robbery and carjacking, on February 21, 2014, Walker and four co-conspirators were charged by a Federal grand jury with conspiracy to commit carjacking, use of a firearm during a crime of violence, and carjacking,.

5. According to witnesses, including co-defendants/co-conspirators, on December 30, 2013 around 11p.m., four of the five co-conspirators traveled to the residence of the victim M.J. One of the co-conspirators, Walker, who had befriended the victim prior to the carjacking and was already inside M.J.'s residence, was waiting for the others to arrive to allow them access into M.J.'s residence. When the co-conspirators, arrived at the residence, Walker let his co-conspirators, who were wearing masks to hide their identities, into M.J.'s residence. Once they were inside, M.J. was tied up, threatened, and physically assaulted. M.J. was robbed and, among other things, his 2004 Oldsmobile Alero was taken by means of threats and violence and while he feared for his life. M.J. immediately reported the robbery and carjacking to the local police. While making his report to police, M.J. told officers that he suspected Walker was an accomplice to the carjacking (and aggravated robbery) at his home because he noticed, among other things, that Walker was texting a lot before the incident occurred and that, because they had not known each other long, Walker should not have felt comfortable or otherwise allowed to answer his door.

6. After the departing M.J.'s residence, the five co-conspirators drove M.J.'s car to North Dallas to visit one of Wafer's girlfriends at an apartment complex. At the apartment complex at approximately 12:00 a.m. (now December 31, 2013), a second victim was shot and robbed. Police were contacted and a witness reported seeing an Oldsmobile near the scene of the shooting.

7. Minutes following the shooting, responding police officers located the Oldsmobile matching the witness's description and identified it as being the same Oldsmobile that M.J. had reported stolen just a short time earlier that night. A short high-speed pursuit ensued, and the individuals inside M.J.'s car, jumped out and fled (two of the suspects – Wafer and Sims – were arrested that night while the others were arrested at later dates). During the police inventory of the stolen Oldsmobile Alero, officers recovered a cell phone, specifically one LG M500 cellular phone, ESN 309CYM022114, IMEI 013758-00-022114-1 (SUBJECT DEVICE). The SUBJECT DEVICE was placed in DPD custody.

8. On January 25, 2014, DPD received a CD containing a recorded conversation involving Walker, Robertson, and Staton that occurred the day after the carjacking (a friend of Wafer's girlfriend surreptitiously recorded the conversation on her cell phone to show that Wafer was not the shooter during the robbery at the apartment complex that took place shortly after the carjacking). On the audio, Walker can be heard making statements about M.J., the carjacking, running from police, and the false story –

that he was not involved but merely a victim himself – he would tell law enforcement officers if later caught and questioned. On January 27, 2014, Walker was arrested on a state arrest warrant for the aggravated robbery related to the carjacking. Following his advice of rights and waiver of *Miranda*, Walker was interviewed by a DPD detective. During the interview, Walker was shown the SUBJECT DEVICE and acknowledged that it was his cell phone.

9. On February 27, 2014, I took possession of the SUBJECT DEVICE from DPD Detective Robert Laurence. The device is currently in storage at the Dallas Office of the FBI, One Justice Way, Dallas, Texas. In my training and experience, I know that the SUBJECT DEVICE has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the device first came into the possession of DPD and then, the FBI.

10. Based on the investigation to date, I believe there is probable cause to believe that the SUBJECT DEVICE was used to commit and facilitate violations of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking). Based on my training and experience, the statements of M.J., and the statements provided by other coconspirators and witnesses, the home invasion was pre-planned and there would have been a need for Walker, the inside man, to communicate covertly with the other four coconspirators and a means by which to do so. I believe that

means was a cell phone. Consistent with my belief, M.J. noted that Walker was doing a lot of texting (a sufficiently covert method of communicating) that evening and leading up to the aggravated robbery and carjacking, and, a cell phone, specifically Walker's cell phone, was found in M.J.'s stolen vehicle immediately following the escape and attempted escape of Robertson, Walker, Staton, Wafer, and Sims.

CONCLUSION

11. Therefore, I submit that this affidavit supports probable cause for a search warrant authorizing the forensic examination of the SUBJECT DEVICE described in Attachment A to seize the items described in Attachment B because there is probable cause to believe that it was used to facilitate and will contain evidence of violations of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking).

Respectfully submitted,

RODRIGO R. GONZALEZ III
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me on
this 7th day of March, 2014.

____
DAVID L. HORAN
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

SUBJECT DEVICE to be searched is:

1. LG M500 cellular phone, ESN 309CYM022114, IMEI 013758-00-022114-1, which is currently located at the Dallas Office of the FBI, One Justice Way, Dallas, Texas.

ATTACHMENT B

All items, records, documents, data, and information in whatever form that constitute evidence, fruits or instrumentalities of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking), including:

1. All image and video files, including .jpg, .mpg, .tif, .gif, .bmp, and avi, files, and compressed archives such as zip files that constitute evidence, fruits or instrumentalities of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

2. All communications, including but not limited to text messages, e-mails, instant messages, and chats, and including all associated header information and data, discussing, relating or pertaining to violations of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

3. All contact information associated with and/or constituting evidence, fruits or instrumentalities of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking), including names, phone numbers, addresses, and e-

mail addresses of known and unknown coconspirators and/or other associated individuals or businesses;

4. All software programs or applications, and all associated records, data or logs that constitute evidence, fruits or instrumentalities of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

5. All software programs or applications, and all associated records, data or logs, used for or capable of image manipulation or concealment, such as steganography, encryption, or compression, used to commit and/or facilitate violations of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

6. All software programs or applications, including any associated records, data or logs, used to access the Internet used to commit and/or facilitate violations of 18 U.S.C. § 371 (Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

7. All records, data and information constituting, evidencing, associated with or related to the operating system configuration, and the configuration of any software program or application used to or associated with violations of 18 U.S.C. § 371

(Conspiracy to Commit Carjacking), 18 U.S.C. § 924(c) (Brandishing a Firearm During and in Relation to a Crime of Violence) and 18 U.S.C. §§ 2119 and 2 (Carjacking);

8. All records, data and information constituting, evidencing, associated with or related to the ownership and/or control of the SUBJECT DEVICE itself.